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REMARKS

Specification. In the Non-Final Office Action, Examiner Patel objected to the disclosure because of a lack of a serial number for a related art. The Applicant has amended the specification herein to obviate this objection to the specification. No new matter was introduced by the amendment of the specification. Withdrawal of the objection to the specification is therefore respectfully requested.

Claims. In the Non-Final Office Action, Examiner Patel objected to and rejected pending claims 1-6 and 11-23 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2002.0059408 to *Pattabhiraman* et al. The Applicant responds to this rejection as subsequently recited herein, and respectfully requests reconsideration and further examination of the present application under 37 C.F.R. §1.112:

As to the rejection, the Applicant has thoroughly considered Examiner Patel's remarks concerning the patentability of claims 1-6 and 11-23 over *Pattabhiraman*. The Applicant has also thoroughly read *Pattabhiraman*. To warrant this anticipation rejection of claims 1-6 and 11-23, *Pattabhiraman* must show each and every limitation of independent claims 1, 21 and 22 in as complete detail as in contained in independent claims 1, 21 and 22. See, MPEP §2131. The Applicant respectfully traverses this anticipation rejection of claims 1-6 and 11-13, because *Pattabhiraman* fails to teach or suggest the following limitations of independent claims 1, 21 and 22:

1. "updating a threshold utility as a function of the average queue length and the rate at which the queue length is increasing", and "processing the packet based on the threshold utility" as recited independent claim 1; and
2. "means for updating a threshold utility as a function of the average queue length and the rate at which the queue length is

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increasing", and "means for processing the packet based on the threshold utility" as recited independent claims 21 and 22.

Specifically, as illustrated in FIG. 5, *Pattabhiraman* discloses a configurable threshold ALLOCTH 520, a settable threshold MINTH 522, and a settable threshold MAXTH 524. In operation, if an average queue length 542 is below configurable threshold ALLOCTH 520, then a bandwidth manager sends a bandwidth request to an arbiter to increase the bandwidth of a channel. Conversely, if the average queue length 542 is above configurable threshold ALLOCTH 520, then the bandwidth manager sends a bandwidth request to the arbiter to decrease the bandwidth of the channel. Additionally, if the average queue length 542 is below settable threshold MINTH 522, then inbound data is queued and not dropped. If the average queue length 542 is between settable threshold MINTH 522 and settable threshold MAXTH 524, then inbound data is randomly dropped. If the average queue length 542 is above settable threshold MAXTH 524, then all data is dropped. See, *Pattabhiraman* at paragraphs [0068]-[0072].

A careful review of *Pattabhiraman* reveals the fact that *Pattabhiraman* fails to teach or suggest any of the three aforementioned thresholds 520, 522 and 524 being updated as a function of average queue length 542 and a rate at which a queue length 540 is increasing as required by the aforementioned limitations of independent claims 1, 21 and 22. Withdrawal of the rejection of independent claims 1, 21 and 22 under 35 USC §102(e) as being anticipated by *Pattabhiraman* is therefore respectfully requested.

Claims 2-6 and 11-20 depend from independent claim 1. Therefore, dependent claims 2-6 and 11-20 include all of the elements of independent claim 1. It is therefore respectfully submitted by the Applicant that dependent claims 2-6 and 11-20 are allowable over *Pattabhiraman* for at least the same reasons as set forth with respect to independent claim 1 being allowable over *Pattabhiraman*. Therefore, withdrawal of the rejection of dependent claims 2-6 and 11-20 under 35 USC §102(e) as being anticipated by *Pattabhiraman* is therefore respectfully requested.

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Claim 23 depends from independent claim 22. Therefore, dependent claim 23 includes all of the elements of independent claim 22. It is therefore respectfully submitted by the Applicant that dependent claim 23 is allowable over *Pattabhiraman* for at least the same reasons as set forth with respect to independent claim 22 being allowable over *Pattabhiraman*. Therefore, withdrawal of the rejection of dependent claim 23 under 35 USC §102(e) as being anticipated by *Pattabhiraman* is therefore respectfully requested.

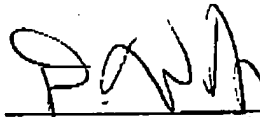
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SUMMARY

Examiner Patel's rejection of 1-6 and 11-23 has been obviated herein by the remarks supporting an allowance of claims 1-6 and 11-23 over *Pattabhiraman*. The Applicant respectfully submits that pending claims 1-23 as listed herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, Examiner Patel is respectfully requested to contact the undersigned at the telephone number listed below.

Dated: December 20, 2004

Respectfully submitted,
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